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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------|------------------|
| 10/707,489 | 12/17/2003 | David M. Kuchar | 51900-KUCHAR-002 | 1488 |
| 34325 | 7590 | 10/07/2005 | EXAMINER | |
| STANLEY H. KREMEN 4 LENAPE LANE EAST BRUNSWICK, NJ 08816 | | | WATKINS III, WILLIAM P | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1772 | |
| DATE MAILED: 10/07/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,489

Applicant(s)

KUCCHAR, DAVID M.

Examiner

William P. Watkins III

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005 and 17 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 6, 8-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/17/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The examiner notes that several of the electronic signatures in the application appear to be improper in that the name of the person should appear between two back slashes and not behind a single back slash (see 37 CFR 1.4(d)(3)). No correction is required at this time as the declaration and power of attorney, filed 17 December 2005 and the amendment filed 11 August 2005 all have regular signatures.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Scholl (U.S. 2,633,440) or Udoh (U.S. 5,967,788).

See element Figure 3 of Scholl and Figure 2 of Udoh. Both references show tape type substrates with slits on opposite

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sides of the tape edges that form pennant and connector portions when the tapes are stretched.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scholl (U.S. 2,633,440) or Udoh (U.S. 5,967,788) further in view of Kuchar (U.S. 5,244,715).

Scholl and Udoh teach expandable strips as notes above. Kuchar (co. 2, lines 1-10, element 20) teaches the use of end perforations and partially formed slits to keep a sheet together until final use and prevent tearing. The instant invention claims a tape with slits that are partially formed. It would have been obvious to one of ordinary skill in the art to have formed partial slits and end perforations in the sheets of Scholl and Udoh to prevent the sheet from opening till final use and to prevent tearing.

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6. Claims 6 and 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The limitation of "y" shaped slits in claim 6 in combination with the other limitations of the claim, distinguish over the cited art. The limitation of edge slits, two on a side, followed by two on the opposite side in combination with the other limitations of claim 8 distinguish over the cited art. The limitation of one slit on one side followed by two slits on the opposite side in combination with the other limitations of claim 10, distinguish over the cited art. The examiner notes that the slits of Leech are not from the edge of a tape but instead are in the middle of a sheet.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The references show various sheet and slit structures.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally

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be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WW/ww
October 2, 2005

**WILLIAM P. WATKINS III
PRIMARY EXAMINER**